

Rec'd 11/18/18

TIM WARD
TULARE COUNTY DISTRICT ATTORNEY
TREVOR HOLLY, DEPUTY DISTRICT ATTORNEY
SBA#226564
221 S. MOONEY BLVD., ROOM 224
VISALIA, CA 93291
TELEPHONE: (559) 636-5494
FAX: (559) 730-2658

Attorneys For Real Party In Interest

TULARE COUNTY SUPERIOR COURTS
STATE OF CALIFORNIA, VISALIA DIVISION

In Re SEARCH WARRANT #013487

CASE NO: _____

YORAI BENZEEVI,

Moving Party,

v.

SUPERIOR COURT OF THE COUNTY OF
TULARE,

Respondent,

TULARE COUNTY DISTRICT ATTORNEY,

Real Part in Interest.

REAL PARTY IN INTEREST'S
SUPPLEMENT TO OPPOSITION TO
SEAL & FOR A PROTECTIVE ORDER
REGARDING PORTIONS OF DR.
BENZEEVI'S MEMORANDUM IN
SUPPORT OF HIS MOTION FOR
RETURN OF SEIZED PROPERTY
AND RELATED EVIDENTIARY
HEARING AND SUPPORTING
DECLARATION OF DUROSS
O'BRIAN; DECLARATION OF
BEVAN A DOWD IN SUPPORT
THEREOF

Date: November 9th, 2018
Time: 2:00 pm
Dept: 13

Respondent, the People of the State of California, by and through their
attorneys, TIM WARD, District Attorney, and TREVOR HOLLY, Deputy District Attorney,
submit this REAL PARTY IN INTEREST'S SUPPLEMENT TO OPPOSITION TO SEAL &
FOR A PROTECTIVE ORDER REGARDING PORTIONS OF DR. BENZEEVI'S
MEMORANDUM IN SUPPORT OF HIS MOTION FOR RETURN OF SEIZED PROPERTY
AND RELATED EVIDENTIARY HEARING AND SUPPORTING DECLARATION OF
DUROSS O'BRIAN; DECLARATION OF BEVAN A DOWD IN SUPPORT THEREOF. This

OPPOSITION TO MOTION TO SEAL

1 motion is based upon the pleadings, points and authorities, evidence, and argument presented at
2 the hearing of the matter.
3

4
5 **ARGUMENT AND AUTHORITY**
6

7 Movant's have strongly argued Dr. Benzeevi's personal interest in sealing portions of
8 his motion and supporting documents. The People do agree that account numbers and
9 identifying information should be redacted, as it is in the public interest that such information
10 be sealed to prevent it from being used for fraud. The People object to the remainder of the
11 movant's request to seal, including the record of transactions through Dr. Benzeeiv's and
12 HCCA's bank accounts, the declarations of J. Duross O'Bryan and B. Dowd, with attached
13 exhibits, and Dr. Benzeevi's Memorandum in support of his Motion for Return of Seized
14 Property and Related Evidentiary Hearing.

15 The Movant's spent considerable time noting Dr. Benzeeiv's right to financial privacy.
16 However, that right to privacy is not absolute;
17

18 "Thus, the question in the context of sealing is whether the state-recognized privacy
19 interest in financial information overrides the federal constitutional right of access to court
20 records. This is necessarily a balancing inquiry, dependent on the facts and circumstances of
21 the particular case." (*Overstock.com, Inc. v. Goldman Sachs Grp., Inc.*, 231 Cal. App. 4th
22 471, 504, 180 Cal. Rptr. 3d 234, 262 (2014)
23

24 The Movant's spend much less effort addressing the public interest in this case. There
25 is a strong, inherent public interest in all court proceedings. (*NBC Subsidiary (KNBC-TV),*
26 *Inc. v. Superior Court*, 20 Cal. 4th 1178, 1219, 980 P.2d 337, 366 (1999). As CEO of a
27 public hospital, Dr. Benzeevi sold three million dollars of public property and directed the
28 money into an account entirely controlled by himself. He then paid his attorneys and

OPPOSITION TO MOTION TO SEAL

1 transferred the remaining two million four hundred thousand dollars to his personal account,
2 where he proceeded to spend over one million four hundred thousand dollars of the stolen
3 funds. To claim that this information is of “no interest to the public”¹ is simply wrong. It is
4 hard to think of a case that the public would have a stronger interest in than an instance of a
5 public employee betraying the public trust in order to enrich himself through the sale of public
6 property.
7

8 The Movant also fails to establish that any significant prejudice will accrue to Dr.
9 Benzeevi. There is no interest in protecting Dr. Benzeevi from either civil suit or criminal
10 prosecution. So long as the identifying account information is redacted, merely noting
11 transactions and where the money was spent does not subject HCCA or Dr. Benzeevi to
12 criminal fraud, particularly as the accounts at issue are no longer in use. The Movant’s have
13 failed to identify any other specific instance of prejudice that may accrue.

14 In their request to seal, the Movants have failed to properly balance the factors
15 required to seal under Cal. Rules of Court 2.550(d). Dr. Benzeevi’s narrow self interest in
16 financial privacy cannot defeat the public interest in a case where Dr. Benzeevi sold three
17 million dollars of tax payer property and absconded with the proceeds. The People
18 respectfully request that the Court deny the movants motion to seal.
19
20

21 Dated: October 19th, 2018

22 Respectfully submitted,

23 TIM WARD
24 DISTRICT ATTORNEY

25 
26 TREVOR HOLLY
27 DEPUTY DISTRICT ATTORNEY
28

¹ Movant’s Motion to seal, pg 3, lines 20 & 21.

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5

The undersigned declares:

I am a citizen of the United States. My business address is 221 S. Mooney Blvd., Room 224, Visalia, California 93291. I am over the age of eighteen years and not a party to the within action.

On the date set forth below, I caused the **REAL PARTY IN INTEREST'S SUPPLEMENT TO OPPOSITION TO SEAL & FOR A PROTECTIVE ORDER REGARDING PORTIONS OF DR. BENZEEVI'S MEMORANDUM IN SUPPORT OF HIS MOTION FOR RETURN OF SEIZED PROPERTY AND RELATED EVIDENTIARY HEARING AND SUPPORTING DECLARATION OF DUROSS O'BRIAN; DECLARATION OF BEVAN A DOWD IN SUPPORT THEREOF** in the matter of YORAI BENZEEVI vs SUPERIOR COURT OF THE COUNTY OF TULARE, to be served on:

ELLIOT R. PETERS
KEKER, VAN NEST & PETERS LLP
FAX: (415) 397-7188


ATTORNEYS OLIVER W. WANGER AND PETER M. JONES
WANGER JONES HELSLEY
FAX: (559) 233-9330

ATTORNEY KEVIN RONNEY
HAMMERSCHMIDT LAW CORP
FAX: (559) 233-4333

Mail _____ Interoffice Mail _____ Overnight Mail _____ Fax _____ XX _____
Hand Delivered _____ Certified Mail _____ Pick-up _____ In Court _____

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 19, 2018.


Jenna Dunlop
Supervising legal Office Assistant